

FILED

NOV 20 2007

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAMON ARCINIEGA-GARCIA, aka
Raul Mejia Garcia aka Raul Zapata
Gonzalez aka Ignancio Balderanos aka
Alberto Aciniega aka Alberto Garcia
Arciniega,

Defendant - Appellant.

No. 07-30041

D.C. No. CR-06-00013-DWM

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, District Judge, Presiding

Submitted October 22, 2007^{**}

Before: B. FLETCHER, WARDLAW, and IKUTA, Circuit Judges.

Ramon Arciniega-Garcia appeals from his 46-month sentence imposed
following his guilty plea conviction for being an illegal alien found in the United

^{*} This disposition is not appropriate for publication and is not
precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

States following deportation, in violation of 8 U.S.C. § 1326(a). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Arciniega-Garcia contends that the district court's sentence is unreasonable in light of the 18 U.S.C. § 3553(a) factors and also contends that the district court treated the Sentencing Guidelines as mandatory when it failed to conduct a proper 18 U.S.C. § 3553(a) analysis. We disagree. *See United States v. Plouffe*, 445 F.3d 1126, 1131 (9th Cir.), *cert. denied*, 126 S. Ct. 2314 (2006).

Arciniega-Garcia contends that the disparity between his sentence and the sentences imposed on similarly-situated defendants who are prosecuted in districts with fast-track programs is unwarranted and renders his sentence unreasonable. This contention is foreclosed by *United States v. Marcial-Santiago*, 447 F.3d 715, 717-19 (9th Cir. 2006).

AFFIRMED.